

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

Best Medical International, Inc.)
)
)
Plaintiffs,)
)
) 2:10-cv-1043
v.)
)
Accuray, Inc.)
)
)
Defendant.)

**UNOPPOSED MOTION FOR LEAVE TO FILE CLAIM CONSTRUCTION
BRIEF IN EXCESS OF PAGE LIMITATIONS**

Defendant Accuray Incorporated (“Accuray”), by and through its counsel, hereby requests permission to file Defendant’s responsive claim construction brief in excess of the page limitations previously set by this Court in its March 6, 2012 Order (Doc. No. 133), and states as follows:

1. The Second Amended Case Management Order (Dkt. No. 130) entered in this case on January 4, 2012 provides:
 - a. Plaintiff’s Opening Claim Construction Brief shall be filed on March 8, 2012;
 - b. Defendant’s Response to the Opening Claim Construction Brief shall be filed on March 29, 2012;
 - c. Plaintiff’s Reply shall be filed on April 12, 2012; and
 - d. Defendant’s Sur-reply shall be filed on April 26, 2012.
2. This case involves U.S. Patent No. 6,038,283 (“the ‘283 Patent”), claiming a method and apparatus for determining an optimized radiation beam arrangement for applying

radiation to a target tumor volume while minimizing radiation to healthy structure volumes in a patient.

3. The parties have identified approximately 12 terms or phrases for construction in asserted Claim 25 of the ‘283 Patent.

4. In addition, Claim 29 of the ‘283 Patent contains 5 means-plus-function terms that also require construction pursuant to 35 USC § 112(6).

5. Accordingly, on March 5, 2012, the parties jointly moved for leave of Court to file Opening and Responsive Briefs in excess of the 20-page limitation under the Court’s Practices and Procedures for briefs.

6. On March 6, 2012, the Court granted the parties’ request.

7. Defendant Accuray has determined that due to the number of terms and phrases to be construed and the complex nature of the technology described and claimed in the ‘283 Patent, an additional 15 pages is required to adequately brief its Response to Plaintiff’s Opening Claim Construction Brief.

8. Therefore, Accuray respectfully seeks leave of Court to file a Responsive Brief of no more than 60 pages.

9. Accuray’s counsel, Kirsten R. Rydstrom, conferred with plaintiff’s counsel, Eric Soller, on this request and plaintiff’s counsel advised that plaintiff would not oppose this request.

WHEREFORE, Accuray requests leave of Court to file its responsive claim construction brief in excess of the page limitations set forth in this Courts' March 6, 2012 Order.

Respectfully submitted,

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Date: March 26, 2012

CERTIFICATE OF SERVICE

I certify that on the 26th day of March, 2012, I served the foregoing via electronic mail only on the following:

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